

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED
JUN 29 2005

[Signature]
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

PAVIT VIT XAYPHANTHO,

Defendant.

CR 03-30103

SECOND
ORDER AND OPINION ON
MOTION FOR COPIES OF DOCUMENTS

Defendant filed a motion (Doc. 224) for copies of his docket sheet, certain docket entries, transcripts, and discovery material. That motion was denied (Doc. 226) based upon lack of jurisdiction. Defendant has filed another motion (Doc. 229) for copies of the same documents previously requested. Pursuant to Rule 6 of the Rules Governing § 2255 Proceedings, a petitioner may invoke the discovery process with leave of Court. However, there is no § 2255 proceeding pending. Defendant has until August 29, 2005, within which to file a § 2255 motion. 28 U.S.C. § 2255. Defendant's criminal case is closed. Therefore, this Court has no jurisdiction to rule on defendant's motion. United States v. Gleason, 753 F.2d 83, 85 (8th Cir. 1985). Defendant may contact the Clerk's office to make arrangements to prepay for copies of his file. There were no transcripts prepared of his plea or sentencing hearings.

IT IS ORDERED that defendant's motion (Doc. 229) for copies is denied.

Dated this 28th day of June, 2005.

BY THE COURT:

Charles B. Kornmann
CHARLES B. KORNMAN
U.S. District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: *[Signature]*

DEPUTY

(SEAL)